

New Jersey State Tax news

A Quarterly Newsletter

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inside

interest 9%	1
new filing for partnerships ...	1
important phone numbers	1
reinstatement fees	2
new jobs tax credit	2
inheritance tax questions	3
new compromise tax guide ...	3
correction	3
property tax reimbursements	4
farmland acreage decline	4
tax assessors' calendar	4
tax assessor certificates	4
criminal enforcement	5
enforcement summary	5
tax briefs	6
in our courts	6, 9-10
seized business list	7-9
in our legislature	10
tax calendar	10-11
from the director's desk	12

Interest 9% for Fourth Quarter

The interest rate assessed on amounts due for the fourth quarter of 1994 remains at 9%.

The assessed interest rate history is listed below.

Effective Date	Interest Rate
1/1/93	11%
4/1/93	11%
7/1/93	9%
10/1/93	9%
1/1/94	9%
4/1/94	9%
7/1/94	9%
10/1/94	9%

New Filing Requirements for Partnerships

Partnerships with one or more New Jersey resident partners or deriving income/loss from New Jersey sources are now required to file a New Jersey partnership return, Form NJ-1065. The effective date of this new filing requirement is for tax years ending on or after 12/31/94. The partnership is required to file this new form on or before the fifteenth day of the fourth month following the close of the partnership's taxable year.

This new filing requirement is for informational purposes only. The partnership is not subject to Gross Income Tax but the individual partners are

liable for the payment of Gross Income Tax based upon their distributive share of partnership income/loss.

The New Jersey Gross Income Tax Act does not follow all the Federal income tax provisions for partnerships and/or partners. The proper determination, classification, and reporting of income/loss by the partnership is critical to the proper reporting of a New Jersey income/loss by the individual partners. The partnership information required to be reported on the form is needed to adjust items of Federal income/loss and expense to conform with New Jersey Gross Income Tax statutes and to separate income/loss derived from New Jersey sources from amounts derived from all sources.

continued on page 2



important phone numbers

Taxpayer Hotline 609-588-2200
Recorded Topics 800-323-4400
Speaker Programs 609-984-2402
NJ TaxFax 609-588-4500

Alcoholic Bev. Tax 609-984-4121
Corporate Mergers, Withdrawals &
Dissolutions ... 609-292-5323
Corporate Tax Liens .. 609-292-5323
Director's Office 609-292-5185
Inheritance Tax 609-292-5033
..... 609-292-5035
..... 609-292-7147

Local Property Tax 609-292-7221
Motor Fuels Tax Refunds
..... 609-292-7018
Public Utility Tax 609-633-2576
Tax. Registration 609-292-1730

partnerships - from page 1

All choices affecting the computation of income/loss from a partnership are made by the partnership, not each partner. This includes the choice of method of accounting, depreciation, capitalization of organizational fees, and the use of installment sale provisions. It also includes the determination and classification of income/loss and the allocation of income to New Jersey. All partnership elections are equally applicable and binding to all of the partners.

Part of the filing requirements of Form NJ-1065 is the completion of Schedule(s) NJK-1 (Form NJ-1065). A separate Schedule NJK-1 must be completed for each partner in the firm, both residents and nonresidents. Furthermore, a completed Form NJK-1 must be supplied to each partner for use in the filing of his/her personal Gross Income Tax return.

The use of these new forms will standardize the information reporting requirements and simplify the completion of the individual partner's personal Gross Income Tax return.

The Division is in the process of preparing an information booklet for partners in partnerships and shareholders in S corporations to aid them in filing their personal tax returns. This new booklet entitled *Income Received from Partnerships and S Corporations* will be ready for the 1994 tax year.

Reinstatement Fees

As a result of clarification in the interpretation of several existing corporate statutes, N.J.S.A. 14A:15-2(7), N.J.S.A. 14A:15-3(15) and N.J.S.A. 54:11-5, the correct reinstatement fee for a voided corporate charter amounts

to \$70.00, plus any deficiencies and/or delinquencies of tax, penalty and interest that caused the avoidance of the corporate charter.

This fee structure became effective April 14, 1988.

CORPORATION TAX **New Jobs** **Investment Tax** **Credit**

The New Jobs Investment Tax Credit Act (P.L. 1993, c.170), N.J.S.A. 54:10A through 5.15, became effective for tax years beginning on or after July 7, 1993. This credit allows a business tax credit for those corporations who make an investment in new or expanded business facilities that create new jobs in New Jersey.

To qualify for the New Jobs Investment Tax Credit, the investment must create at least 5 new jobs for small businesses (defined as those with annual payrolls of not more than \$2,000,000 and annual gross receipts of not more than \$6,000,000) and 50 new jobs in the case of large businesses. The median annual compensation for the new jobs must be \$27,000. In addition, the investment must be in new or expanded business facilities purchased from an unrelated party during or after the taxpayer's accounting period beginning on or after July 7, 1993. The property must be employed by the taxpayer in a taxable activity and must not have been in use during the 90 day period prior to purchase.

The credit is based upon a percentage of the cost of the property purchased and is determined based on the expected depreciable life of the property, categorized by 3 year, 5 year, and 7 or more year recovery periods.

The taxpayer cannot claim a credit for a number of new employees that exceeds either the increase in the taxpayer's average employment for the tax year, or one-half the taxpayer's average employment for the year. Therefore, in order to qualify for this credit, there must be increases in both New Jersey property and employment. The credit is spread out over a five-year period.

continued on page 3

New Jersey State Tax **news**

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new jobs investment tax credit - from pg. 2

The credit may not exceed 50% of the corporation business tax liability otherwise due and shall not reduce the tax below the statutory minimum. If the credit exceeds this limitation, the taxpayer is eligible for a refund limited to 50% of the sum of property tax and implicit property tax directly resulting from qualified investment. Any amounts in excess of this amount cannot be carried forward.

This credit can be taken on Form 304. (See *Business Incentive Tax Package* booklet and Forms 300 through 307 for other tax credits which may be taken on the Corporation Business Tax Return). These forms and the booklet are available upon request from the Forms Distribution Section, CN 269, 50 Barrack Street, Trenton, New Jersey 08646-0269 or by calling 1-800-323-4400.

INHERITANCE/ESTATE TAX Frequently Asked Questions

This is the second of three successive issues in which the Transfer Inheritance and Estate Tax Branch will respond to specific inquiries taken from a list of most frequently asked questions.

1. What is a Form L-8?

The Form L-8 is a self-executing waiver which was born of the legislation granting Class "A" beneficiaries full exemption from New Jersey Transfer Inheritance Tax. The form was designed and implemented to accommodate those beneficiaries directly affected by this legislation. The purpose of the form is to allow convenient and expeditious access to assets of a resident decedent which are passing under specified conditions to a Class "A" beneficiary.

Class "A" beneficiaries for whom the Form L-8 is authorized include a surviving spouse in estates having a date of death on or after January 1, 1985, and a child, adopted child, stepchild, parent, grandparent, or grandchild of a decedent when date of death is on or after July 1, 1988. A step grandchild is not a Class "A" beneficiary and is not authorized to use the form.

The Form L-8 self-executing waiver may be obtained and completed at the institution having control of the asset requiring the waiver. This may be a banking facility or, in the case of New Jersey securities, the transfer agent. Detailed instructions are included in the form.

2. What is a Form L-9?

Unlike the Form L-8, the Form L-9 is a request for a waiver and is not actually an instrument which may be used as the basis for releasing control of a decedent's assets.

The Form L-9 is an application for a waiver for the release of a resident decedent's interest in New Jersey real estate. Form L-9 is submitted, together with a copy of the decedent's will, to the Inheritance Tax Branch in Trenton. If warranted, the Branch will then issue the desired waiver. **Form L-9 may only be used when all beneficiaries are class "A" and a Transfer Inheritance Tax Return is not required.** Instructions and criteria are set forth in Form L-9.

3. When using the Form L-8 or the Form L-9, does the executor or administrator have to be a Class "A" beneficiary?

The relationship of the beneficiary to the decedent is the controlling factor. The beneficiary must be a

Class "A" beneficiary.

The relationship of an executor or administrator to the decedent is not relevant unless he/she is also a beneficiary.

4. Is jointly held property part of a decedent's estate for New Jersey Inheritance Tax purposes? If so, is it taxed at full or one-half the rate of death value?

Under provisions of the statute, jointly held property is subject to the tax. For this purpose, the asset is assumed to have belonged entirely to the decedent except that portion that can be proven to have originally belonged to the surviving joint owner(s) and never to have belonged to the decedent.

INHERITANCE/ESTATE TAX New Compromise Tax Guide

The Transfer Inheritance and Estate Tax Branch has recently published its first instructional booklet on the computation of the Compromise Tax. The booklet includes tables and detailed instructions as well as examples based on different sets of circum-

continued on page 4

Correction

Editor's note: There was a typographical error in the last issue of the *State Tax News* (Fall 1994, Volume 23, Number 3) on page 3. On the Organizational Chart of the Division of Taxation, the phone number for Craig Rook, Chief, Out-of-State Audit should have been **(708) 298-9550**. We apologize for any inconvenience caused by this mistake.

compromise tax guide - from pg. 3

stances that would normally require a compromise tax offer.

A copy of the new booklet, *New Jersey Inheritance Tax Guide for Computation of the Compromise Tax*, may be requested by writing to the Transfer Inheritance and Estate Tax Branch, CN 249, 50 Barrack St., Trenton, NJ 08646.

LOCAL PROPERTY TAX

Property Tax Reimbursements

The 1994 State Revenue Sharing Act Distribution for senior and disabled citizens, surviving spouses and veterans was delivered to the State Treasurer on September 15, 1994.

Under the provisions of R.S. 54A:10-1 *et seq.*, as amended, the Director of the Division of Taxation certified to the State Treasurer in this report the amount of revenue sharing funds due each municipality on November 1, 1994.

The total number of property tax deductions for senior and disabled citizens and surviving spouses was 153,556. When compared to tax year 1993, the number of deductions increased .4%, i.e., less than half of 1%.

The total number of veterans' deductions for 1994 was 378,665. That is a 2% decrease from 1993 to 1994.

LOCAL PROPERTY TAX

Farmland Acreage Decline

A report summarizing data from farmland assessment applications (Form FA-1) has recently been completed. The study shows that total acreage devoted to agricultural or horticultural use in 1993 was 1,166,531 acres for

the entire state. The data for tax year 1993 reflect a continued decline in the amount of qualified farmland since enactment of Chapter 48, Laws of 1964 (the "Farmland Assessment Act"). Since 1983, the year in which the highest acreage, i.e., 1.27 million acres, qualified for farmland assessment, the amount of qualified acreage has declined 8.2% or a total of 105,351 acres. 24.27% of New Jersey's land mass is approved under the Farmland Assessment Act. Hudson County remains the only county without farmland. Essex and Union Counties each report less than 500 acres devoted to agricultural or horticultural use. Conversely, Salem County, with 57%, has the greatest proportion of its land qualified under the Act. Other counties with large percentages of qualified farmland are: Hunterdon, 52%; Warren, 48%; Gloucester, 39%; Mercer, 34%; and Sussex, 33%.

LOCAL PROPERTY TAX

Tax Assessors' Calendar

January 1-

- Duplicate of tax map approved previous year filed with the County Clerk or County Register of Deeds by taxing district.
- Hearings of added assessment appeals completed by County Tax Board.
- Hearings of assessors' omitted assessment appeals completed by County Tax Board.

January 10-

- Notice of material depreciation to structure occurring after Oct. 1 and before Jan. 1, given to assessor by taxpayer.
- Copy of Initial Statement and Further Statement filed with County Tax Board.

- Assessment Lists and duplicates filed with County Tax Board.
- Duplicate copy of municipal tax map filed with County Tax Board.
- One copy of each Farmland Assessment application, Form FA-1, forwarded to Property Administration by tax assessor.
- Two copies of Form SR-3A filed with County Tax Board.
- Statement of estimated total amount of approved veteran and property tax deductions filed with County Tax Board.

February 1-

- Notices of current assessment and preceding year's taxes issued to taxpayer by tax assessor.
- Appeal time, where assessor fails to notify taxpayer of current assessment and preceding year's taxes, extended by County Tax Board for any taxpayer aggrieved by the assessed valuation of his property or of other property in the county.
- MOD IV Master file sent to Property Administration via magnetic tape.
- Schedule of office hours for assessors summarized by County Tax Administrator and furnished to Director, Division of Taxation.

March 1-

- Post-Tax Year Statement PD5 filed with tax collector by all recipients of property tax deduction.

March 10-

- Equalization table hearings completed by County Tax Board.

LOCAL PROPERTY TAX

Tax Assessor Certificates

The tax assessor examination is held in accordance with the Assessor Certifi-

continued on page 5



tax assessor certificates - from page 4

cation and Tenure Act, which requires that anyone taking office as a tax assessor after July 1, 1971, must hold a tax assessor certificate.

Twenty-two persons passed the examination for the tax assessor certificate held on September 24, 1994.

Bergen County: Terence J. Cooney, Ridgefield Park Village; Michael S. Filip, Cresskill Borough.

Camden County: Paul J. Breitenstine, Gloucester Township.

Essex County: Edward R. Longo, Cedar Grove Township; Douglas E. Wiedman, Nutley Township; John F. Williams, Belleville Township.

Hudson County: Michael T. DeNoble, Jersey City.

Hunterdon County: Peter H. Mehring, Clinton Township; Marianne S. Busher, Holland Township.

Mercer County: Lee H. Pavel, Princeton Township.

Middlesex County: James Ciacciarrelli, Sayreville Borough.

Monmouth County: Peter J. Barnett, Little Silver Borough; Blanche A. Braillard, Highlands Borough; Bernard Friel, Rumson Borough; Robert Gagliano, Tinton Falls Borough; Robert E. Gibney, Middletown Township; Walker J. Matlack, Long Branch City.

Morris County: Joseph H. Cimiluca, Parsippany-Troy Hills Township.

Ocean County: Martin W. Lynch, Seaside Park Borough.

Sussex County: John K. McChesney, Sparta Township.

Union County: Frederick C. Engelman, Elizabeth City.

The next exam is scheduled for Saturday, March 25, 1995. The last date for accepting applications for this exam will be February 23, 1995. Admission to the exam will be by application only. Individuals retaking the exam must reapply. There is a filing fee of \$10.00.

Criminal Enforcement

Criminal Enforcement over the past several months included:

- Dipak C. Shah, president of Mili Liquors, Inc., plead guilty in Essex County court to charges of failing to turn over sales tax collected. Mr. Shah was ordered to serve three years probation and make restitution of \$72,287.28.
- A prosecution report has been forwarded to the Division of Criminal Justice for a liquor store and its president pursuant to an investigation revealing the filing of fraudulent sales tax returns wherein \$1.4 million in sales was not reported nor was \$85,400 of collected tax related to the unreported sales taxable sales remitted.
- An investigation of an auto dealer uncovered the filing of fraudulent sales tax returns and the failure to report \$600,082 in taxable sales. In addition, \$36,005 of collected tax associated to the unreported sales was not remitted. This case was forwarded for prosecution.
- Fraudulent sales tax returns filed by a tree farm business failed to report \$458,233 in taxable sales. Sales tax collected of \$27,437 on the unreported taxable sales was not remitted. Prosecution was recommended and the matter forwarded to the prosecutor's office.

- A taxpayer plead guilty to the charges filed resulting from a cigarette tax investigation. The fines assessed by the court totaled \$1,300. Thirteen additional cases were filed in municipalities throughout the State. The court dates have not yet been scheduled. There is an increased incidence of unstamped cigarettes being transported through this State which in part is attributed to some other states' eliminating the stamping of cigarettes. This situation is of concern and is being monitored closely.

Enforcement Summary

Civil Collection Actions Quarter Ending - September 30, 1994

Following is a summary of enforcement actions for the quarter ending September 30, 1994.

Certificates of Debt

When demands for payment were unsuccessful, Field Investigations docketed 800 Certificates of Debt in Superior Court totaling \$21.9 million.

Levies

Executing against 390 bank accounts, Field Investigations collected \$2.3 million.

Tax Seizures

After the Division has exhausted all other means to collect the State taxes due from vendors who cannot or will not pay, the business can be "seized" (closed) until some arrangement is made for payment. When a seizure occurs, the Division closes the business and seizes any tangible assets, such as inventory, machinery, furniture, etc.

A total of 45 businesses were scheduled for seizure for the quarter end-

continued on page 6

enforcement summary - from pg. 5

ing September 30, 1994. Of these, 13 businesses were actually closed and six were left open. A listing of seized businesses appears on pages 7, 8 and 9.

If the liability of the closed business is not satisfied, the Division can sell the business assets at public auction after 30 days. For the quarter ending September 30, 1994, two auctions were conducted. When an auction does not realize enough to resolve the entire debt, seizure of personal assets of the responsible officers will be pursued by the Division. This action is executed for the trust fund tax portion of the debt.

Tax Briefs

Corporation Business Tax

S Corporation Minimum Tax — The 1994 minimum tax for a period beginning in 1994 for an S corporation that has elected to be a New Jersey S corporation is \$50 for a domestic corporation and \$100 for a foreign corporation.

Minimum tax for a period beginning in 1994 for a Federal S corporation which has not elected to be a New Jersey S corporation is \$50 for a domestic corporation and \$100 for a foreign corporation.

For periods beginning in calendar year 1995, the amounts would be \$100 for a domestic corporation and \$200 for a foreign corporation. N.J.S.A. 54:10A-5(e). The minimum tax amounts at instruction 11b of the CBT-100 and the CBT-100S relate generally to domestic and foreign corporations whether or not they are S corporations and the instruction assumes they are not investment companies or regulated investment companies.

Gross Income Tax

S Corporation Distributions — The Division received a request for advice with respect to a fiscal year S corporation with a year end June 30, 1994, that has elected New Jersey S status beginning with its fiscal year July 1, 1994. The S corporation typically pays dividends to its shareholders throughout its tax year. The inquirer asked whether these distributions constitute distributions of current earnings which would be taxable to the shareholders on their calendar year 1995 income tax returns or whether these distributions constitute dividends of 1994 fiscal subchapter C earnings.

The Division stated that distributions by a New Jersey S corporation are made pursuant to the priorities found in IRC 1368, N.J.S.A. 54A:5-14. Distributions from the corporation's fiscal year beginning July 1, 1993 and ending June 30, 1994 are dividends for New Jersey purposes. Distributions from the corporation's fiscal year beginning July 1, 1994 and ending June 30, 1995 are tax free to the extent of current period earnings.

In Our Courts

Local Property Tax

Valuation, Discrimination and the Application of Chapter 123—Martin W. & Margaret C. Caulfield, v. Surf City Borough, Tax Court of New Jersey, Docket No. 010296-93, decided July 18, 1994.

This was a local property tax matter concerning valuation, discrimination, and the application of Chapter 123 which provides a statutory formula of relief for properties under tax appeal. The taxpayers appealed to the Tax Court of New Jersey after the Ocean County Board of Taxation affirmed their 1993 assessment of \$425,000. On appeal to the Court, the taxpayers' real

estate appraiser testified that based on four comparable sales the 1993 fair market value of the property, a single family dwelling, was \$360,000. Under cross-examination, he also stated that the highest and best use for the property was its current use as a single family residence. The taxpayers themselves argued that the municipality's establishment of a dune line and a building line reduced the property's buildable area, and therefore it should be considered and valued as a vacant lot.

The municipal tax assessor, using both the replacement cost and three comparable sales, set the property's 1993 fair market value for land and improvements at \$415,000. He then indicated that the difference in his assessed value determination of \$425,000 as compared with his market value determination of \$415,000 was acceptable since the property's assessment to sales ratio of 102.41% fell within the corridor (high 111.81%; low 82.65%) provided under Chapter 123 and that no reduction was warranted.

A brief explanation of Chapter 123 terms and concepts follows:

Chapter 123 Ratio—average ratio for a municipality as determined by Director, Division of Taxation. **Common Level Range**—range which is plus or minus 15% of the average ratio for a municipality. **County Percentage Level**—100% for all 21 counties in New Jersey. Where the ratio of a subject property's assessed to true value exceeds the upper limit or falls below the lower limit of the common level range, the property's taxable value shall be revised by applying the average ratio for the municipality to the true value of the property except as follows:

continued on page 9



Division of Taxation Seizures (July - September 1994)

Note: Businesses listed may have satisfied their tax liability or otherwise come to agreement with the Division following the date of seizure and may now be reopened:

County	Name/Address	Seizure Date	Business Type	Status
Atlantic	Billy Pizza, Inc. T/A Dominos Pizza 200 S. Whitehorse Pike Hammonton	07-12-94	Pizzeria	Closed
Bergen	E P Distribution, Inc. T/A 1001 Auto Parts 1 Highway 46 Elmwood Park	07-13-94	Auto Parts & Tires	Bankrupt 07-22-94
	Micott Enterprises, Inc. T/A A & J Sunoco 292 Forest Avenue Paramus	08-16-94	Gas Station & Auto Repair	Closed
	G & B Foods, Inc. T/A Vanno's 214 Kinderkamack Rd. Emerson	08-23-94	Restaurant & Bar	Reopened 08-25-94
	K V N Corp. T/A Partview Diner 354 Fairview Avenue Fairview	09-12-94	Restaurant/Diner	Closed
Camden	Mohawk Mold & Machine 900 Chestnut Street Somerdale	07-13-94	Factory Injection Molding/Plastic Parts	Bankrupt 07-14-94
	R.W.T. Enterprises, Inc. T/A RT'S Showplace 110 White Horse Pike Oaklyn	07-21-94	Bar/Nightclub	Bankrupt 07-22-94
	Eaglespeed, Inc. 1300 Collings Ave. Collingswood	08-31-94	Auto, Oil & Lube	Closed
Cape May	George W. Davis T/A G. W. Davis Auto Body 2204 Shore Road Whitesboro	08-24-94	Auto Body Shop	Closed
	Winship, Inc. T/A Le Bistro 1610 New York Ave. N. Wildwood	09-14-94	Tavern with Food	Closed
Essex	Auto Express, Inc. 66-68 Prospect Street Newark	07-13-94	Auto Body Shop	Closed

taxation seizures - continued from pg. 7

County	Name/Address	Seizure Date	Business Type	Status
Essex	Ornellas Pizzeria T/A Puzo's Family Ristorante 397 Route 46 West Fairfield	08-16-94	Pizzeria	Bankrupt 08-18-94
Gloucester	Daniel J. & Elizabeth Morris T/A Tussie Mussie Country Store 485 Hurffville-Crosskeys Rd. Washington Twp.	07-07-94	Home Decor Retailer, Arts & Crafts	Bankrupt 07-07-94
	Murray/Mende Pest Control Services, Inc. 6 2nd Avenue Pitman	08-30-94	Pest Control	Closed
Mercer	Bipage, Inc. T/A Ernie's Pub 13 N. Willow St. Trenton	08-05-94	Bar	Closed
Middlesex	1001 Auto Parts Distributors, Inc. 1009 St. Georges Ave. Colonia	07-13-94	Auto Parts & Supplies	Closed
	1001 Auto Parts, Inc. 591 Highway 18 East Brunswick	07-13-94	Auto Parts Store	Bankrupt 07-22-94
	Lacey & Sons Service, Inc. Victory Circle South Amboy	09-08-94	Truck Stop & Storage	Reopened 09-20-94
Monmouth	1001 Auto Parts Keyport, Inc. Keyport	07-13-94	Auto Parts Store	Closed
	Pistol Pete's, Inc. T/A Pistol Pete's Ocean & Chelsea Aves. Long Branch	09-01-94	Bar/Restaurant	Reopened 09-06-94
Morris	Peter's Boathouse 26 Nolans Point Park Rd. Lake Hopatcong	09-14-94	Bar	Reopened 09-15-94
Ocean	Karla Callahan T/A Pet Pantry County Line & New Prospect Rds. Jackson	09-14-94	Pet Store	Closed
Passaic	Dahab Corporation T/A Hewitt House 736 Warwick Tpk. Hewitt	09-08-94	Restaurant/Bar	Released to owner 09-27-94

continued on page 9



taxation seizures - continued from pg. 8

County	Name/Address	Seizure Date	Business Type	Status
Salem	Fashion Graphics, Inc. Rt. 49 163 N. Broadway Pennsville	07-14-94	Plant with Machinery, Showroom	Reopened 07-15-94
Sussex	Byram Video 17 Route 206 Store 4 Stanhope	08-18-94	Video Store	Reopened 08-23-94
Union	WOJ, Inc. T/A Jones Chateau 44 Watchung Ave. Plainfield	07-07-94	Bar	Closed
Warren	Baykun Corporation T/A Golden River Diner 14 Route 57 Hackettstown	09-22-94	Diner w/Counter, Booths & Tables	Released Keys to Landlord 09-26-94

in our courts - continued from pg. 6

Where a municipality's average ratio is below the county percentage level and a subject property's ratio of assessed to true value exceeds the county percentage level, the property's taxable value shall be revised by applying the average ratio to its true value.

Where both the municipality's average ratio and the subject property's ratio of assessed to true value exceed the county percentage level, the property's taxable value shall be revised by applying the county percentage level to its true value.

The Court rejected the taxpayers' contention that the property be valued as vacant land based on their own appraiser's opinion that the highest and best use of the property was its existing use as a single family dwelling. To value the property as vacant ground, it would have to be proved that the land alone was worth more than the land and building together. To the contrary, when attempting to support his value estimate of \$360,000 for the entire subject property, the taxpayers' ap-

praiser used an unadjusted comparable sale for \$360,000 where the improvements had been demolished, saying in effect that the subject property's improvements were valueless. The vacant lot use was also contradicted by the facts that the taxpayers occupied the property as a second home, maintained it in good condition, did not intend to sell it nor demolish it and rebuild within the new boundary line. In addition, the municipal assessor determined the land value of the property to be \$350,000, very close to the taxpayers' appraiser's estimate for the entire property using a vacant land sale as a measure. The Court concurred with assessor and affirmed the fair market value of the entire property at \$415,000.

However, the Court then went on to disagree with the assessor's taxable value or assessed valuation of the property stating that he had misconstrued both Chapter 123 statutes and prior case law. The purpose of the Chapter is to ensure that a property's assessment be equal to or less than its

fair market value, but not greater. Even though, as the assessor had indicated, the ratio of assessment to fair market value was within the common level range at 102.41%, it exceeded the county percentage level of 100%. Since the municipality's average ratio of 97.23% was below the 100% county percentage level, the property's assessment was revised downward to \$403,500 by multiplying the fair market value, \$415,000, by the average ratio, 97.23%. The Court further held that the assessor should not deal with the mathematics of Chapter 123, except when calculating the effective tax rate for factoring a capitalization rate in the income approach to value or when advancing a superior ratio. It was the Court's province to apply Chapter 123 for purposes of discrimination appeals.

Sales and Use Tax
Responsible Party Personally Liable for Tax – Harry Skaperdas/George Skaperdas, and Barry Birkenholtz v. Director, Division of

continued on page 10

in our courts - continued from pg. 9

Taxation, Tax Court of New Jersey, Docket No. 16-02-920-91ST; decided May 27, 1994.

The Tax Court heard an appeal from a determination of the Director, Division of Taxation, finding each of three plaintiffs personally liable for unpaid sales and use tax. It was held that performing supervisory functions, reserving and exercising signatory authority, and receiving substantial benefits made two of the officers personally liable for tax under N.J.S.A. 54:32B-2(w) and N.J.S.A. 54:32B-14 of the Sales and Use Tax Act. However, the third officer was not subject to personal liability for the collection and payment of sales tax based on his limited participation in corporate affairs and receipt of only nominal corporate benefits.

Urban Enterprise Zone Promotional Items and Employee Incentives — Fedway Associates, Inc. v. Director, Division of Taxation, Tax Court, Docket No. 16-02-10134-91ST; decided June 1, 1994.

The Tax Court held that a beverage distributor, holding an "Urban Enterprise Exempt Purchase Permit" in accordance with the Urban Enterprise Zone Act, N.J.S.A. 52:31B-1 *et seq.*, is subject to use tax pursuant to the Sales and Use Tax Act (N.J.S.A. 54:32B-6) on goods purchased as either compensation for its salespersons or as promotional items. To be exempt from tax, goods must be exclusively used or consumed within the enterprise zone. Promotional items are not exclusively consumed until they are used by the salesperson to promote the company's products. Compensation items, though

consumed within the enterprise zone when distributed to salespersons, are not exclusively consumed because they retain economic utility to the recipient to use outside the enterprise zone.

In Our Legislature

Gross Income Tax

New Partnership Return — P.L. 1994, c.117 (signed into law on October 12, 1994) revises the partnership reporting requirement under the Gross Income Tax Act. This act requires a New Jersey Partnership Return for taxable years ending on and after December 31, 1994. Each partnership is also required to furnish each person who is a partner or holds an interest as a nominee with an information return as prescribed by the Director. This bill is effective immediately.

tax calendar

january

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
1	1	2	3	4	5	6	7
9	8	9	10	11	12	13	14
9	15	16	17	18	19	20	21
5	22	23	24	25	26	27	28
	29	30	31				

January 3

NJ-500 Gross Income Tax—Employer's semi-monthly return

January 10

CWIP-1 Cigarette Tax—Informational report by wholesalers
CWIP-2 Cigarette Tax—Informational report by wholesalers

continued

January 17

CBT-100 Corporation Business Tax—Annual return for accounting period ending September 30
CBT-150 Corporation Business Tax—Installment payment of estimated tax for 4th, 6th, 9th or 12th month of current tax year
NJ-500 Gross Income Tax—Employer's semi-monthly return

January 20

CR-1 & CNR-1 Cigarette Tax—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers
GA-1D Motor Fuels Tax—Distributor's monthly report of gallons of fuel sold or used
GA-1J Motor Fuels Tax—Jobber's monthly report of gallons of fuel
MFT-10 Motor Fuels Tax—Monthly report by seller-user of special fuels for sales and/or use in the previous month
SCC-5 Spill Compensation and Control Tax—Monthly return
ST-20 New Jersey/New York Combined State Sales and Use Tax—Quarterly return

continued

January 20 - continued

ST-50 Sales and Use Tax—Quarterly return
ST-250 Combined Atlantic City Luxury Tax/State Sales Tax—Monthly return
ST-350 Cape May County Tourism Sales Tax—Monthly return
ST-450 Sales and Use Tax—Salem County—Quarterly return
TP-20 Tobacco Products Wholesale Sales and Use Tax—Monthly return
UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax—Monthly return

January 25

PPT-40 Petroleum Products Gross Receipts Tax—Quarterly return

January 31

NJ-500 Gross Income Tax—Employer's semi-monthly, monthly, quarterly and semi-annual returns

february

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
1				1	2	3	4
9	5	6	7	8	9	10	11
9	12	13	14	15	16	17	18
5	19	20	21	22	23	24	25
	26	27	28				

February 10

CWIP-1 Cigarette Tax—Informational report by wholesalers

CWIP-2 Cigarette Tax—Informational report by wholesalers

February 15

CBT-100 Corporation Business Tax—Annual return for accounting period ending October 31

CBT-150 Corporation Business Tax—Installment payment of

continued

February 15 - continued

NJ-500 estimated tax for 4th, 6th, 9th or 12th month of current tax year
Gross Income Tax—Employer's semi-monthly and monthly returns

February 21

CR-1 & CNR-1 Cigarette Tax—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

GA-1D Motor Fuels Tax—Distributor's monthly report of gallons of fuel sold or used

GA-1J Motor Fuels Tax—Jobber's monthly report of gallons of fuel

MFT-10 Motor Fuels Tax—Monthly report by seller-user of special fuels for sales and/or use in the previous month

SCC-5 Spill Compensation and Control Tax—Monthly return

ST-21 New Jersey/New York Combined State Sales and Use Tax—Monthly return

continued

February 21 - continued

ST-51 Sales and Use Tax—Monthly return
ST-250 Combined Atlantic City Luxury Tax/State Sales Tax—Monthly return

ST-350 Cape May County Tourism Sales Tax—Monthly return

ST-451 Sales and Use Tax—Salem County—Monthly return

TP-20 Tobacco Products Wholesale Sales and Use Tax—Monthly return

UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax—Monthly return

February 27

PPT-41 Petroleum Products Gross Receipts Tax—Monthly return

February 28

NJ-500 Gross Income Tax—Employer's semi-monthly return

march

	SUN.	MON.	TUE.	WED.	THU.	FRI.	SAT.
1				1	2	3	4
9	5	6	7	8	9	10	11
9	12	13	14	15	16	17	18
5	19	20	21	22	23	24	25
	26	27	28	29	30	31	

March 10

CWIP-1 Cigarette Tax—Informational report by wholesalers

CWIP-2 Cigarette Tax—Informational report by wholesalers

March 15

CBT-100 Corporation Business Tax—Annual return for accounting period ending November 30

CBT-150 Corporation Business Tax—Installment payment of estimated

continued

March 15 - continued

NJ-500 tax for 4th, 6th, 9th or 12th month of current tax year
Gross Income Tax—Employer's semi-monthly and monthly returns

March 20

CR-1 & CNR-1 Cigarette Tax—Monthly report of cigarettes sold or used by distributors, manufacturers, representatives and consumers

GA-1D Motor Fuels Tax—Distributor's monthly report of gallons of fuel sold or used

GA-1J Motor Fuels Tax—Jobber's monthly report of gallons of fuel

MFT-10 Motor Fuels Tax—Monthly report by seller-user of special fuels for sales and/or use in the previous month

SCC-5 Spill Compensation and Control Tax—Monthly return

ST-21 New Jersey/New York Combined State Sales and Use Tax—Monthly return

continued

March 20 - continued

ST-51 Sales and Use Tax—Monthly return
ST-250 Combined Atlantic City Luxury Tax/State Sales Tax—Monthly return

ST-350 Cape May County Tourism Sales Tax—Monthly return

ST-451 Sales and Use Tax—Salem County—Monthly return

TP-20 Tobacco Products Wholesale Sales and Use Tax—Monthly return

UZ-50 Combined State Sales Tax/Urban Enterprise Zone Sales Tax—Monthly return

March 27

PPT-41 Petroleum Products Gross Receipts Tax—Monthly return

March 31

NJ-500 Gross Income Tax—Employer's semi-monthly return



from the director's desk

New for 1994 Filing Season

Gross Income Tax Changes

- In addition to tax rate schedules, the 1994 New Jersey income tax instruction booklets for Forms NJ-1040, NJ-1040NR and NJ-1041 will include **Tax Tables** similar in design to the Federal income tax tables.
- A line for **Net Pro Rata Share of S Corporation Income** has been added to forms NJ-1040, NJ-1040NR and NJ-1041. Line numbers will change after the insertion of the net pro rata share line.
- A reminder that the minimum **income threshold** for Gross Income Tax was raised in 1994 from \$3,000 to **\$7,500** for individuals filing as single, head of household, qualifying widow(er) or married, filing joint return, and estates and trusts (and from \$1,500 to \$3,750 for individuals filing as married, filing separate return). See *State Tax News*, Volume 23, Number 2, page 1, for more information.

New Forms

- A new business allocation form, **Form NJ-NR-A**, is available for this tax season. It replaces Forms NJ-1041-A and NJ-1040NR-A.
- **Form NJ-1065, New Jersey Partnership Return**, is now available for filing by every partnership or limited liability company that has income from New Jersey sources or a partner who is a New Jersey resident, for taxable years ending on or after December 31, 1994.
- **Form CBT-100S, New Jersey S Corporation Tax Return**, is now available for filing by eligible S corporations.
- A new **Application for Registration (Form REG-1)** and instructions are available. The registration packet (REG-P) includes new forms such as applications for cigarette and motor fuel licenses and a New Jersey S Corporation Election form.

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Division of Taxation
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